

**Management Agreement
For
City of Lincoln
Parking Facilities**

This agreement, made this ____ day of _____, 2004 between the City of Lincoln, Nebraska, hereinafter referred to as "City" and Republic Parking System, Inc., a Tennessee corporation, Suite 2000 Republic Centre, Chattanooga, TN 37450, hereinafter referred to as "Operator".

Whereas, the City owns the following parking facilities containing approximately 4,523 parking spaces in the City of Lincoln:

Center Park Garage, 1120 N Street
Cornhusker Square Garage, 1220 L Street
University Square Garage, 101 N. 14th Street
Que Place Garage, 1111 Q Street
Carriage Park Garage, 1128 L Street
Market Place Garage, 925 Q Street
Haymarket Garage, 840 Q Street
Lincoln Station South Parking Lots, 7th, P to Q Streets
Iron Horse Lot, 7th and R
Federal Garage, 100 North Centennial Mall
Lumberworks Parking Lot, 7th and "O" Streets

Now, therefore, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

I. Intent

The City owns and holds the above parking facilities for the benefit of the citizens of the City of Lincoln;

The parking facilities are a significant asset and an integral part of the City's efforts to provide services in the Public interest for the betterment of the community;

Operator has extensive skill, expertise, and experience in management services, marketing services, administration services and procurement services;

The City desires to engage the Operator to manage and operate the parking facilities and the Operator desires to accept such engagement on the terms and conditions set forth in this Agreement.

II. Term

The City hereby employs and engages Operator to operate and manage the parking facilities described above and any additional parking facility which may come on line for a period of four years commencing on September 1, 2004 through August 31, 2008.

III. Operator Responsibilities

Operator shall be responsible for the day-to-day operations of the parking facilities, shall perform all normal and customary maintenance as required by the City and as necessary for the proper operation and care of the facilities. Operator shall maintain the premises neat and clean at all times, including all sidewalk areas adjoining the facilities and shall keep the City advised of their general condition and repair. Operator does not have knowledge or expertise to identify or diagnose structural defects in a parking facility and does not employ personnel for that purpose. Notwithstanding the forgoing, Operator will inform the City immediately of any defect in the condition or operation of the facilities of which Operator becomes aware. Operator shall submit, in writing, recommended changes in the operation, maintenance or graphics procedures deemed necessary or desirable. Operator does not have knowledge or expertise as a guard or security service and does not employ personnel for that purpose, nor do Operator's employees undertake the obligation to guard or protect customers against the intentional acts of third parties. Notwithstanding the forgoing, Operator will notify the City of deficiencies in security procedures and equipment of which it becomes aware. The final determination for any change shall rest solely with the City.

Operator shall keep and maintain the City parking facilities, its fixtures and equipment in good condition and repair at all times, including but not limited to:

- Perform preventative maintenance on all equipment in accordance with manufacturer's recommendations, to be paid by the City.
- The maintenance of parking control equipment shall be through a maintenance service contract, approved by the City, with the expense of such maintenance and repair charged as an item of operating expense to be paid by the City.

Except for damage or destruction that can be covered by a standard fire and extended coverage insurance policy, any maintenance and repair which is made necessary as a result of the negligence or carelessness of the Operator or its agents or employees, shall be the exclusive responsibility of and be repaired or replaced by the Operator at no cost to the City, but only to the extent same is caused by negligence, misconduct or other fault of Operator, its agent or employees.

Operator shall at all times comply with all applicable Federal, State and City laws and ordinances, as well as any rules, regulations and instructions which the City may impose after signing of contract, subject to Operator's knowledge and approval of such.

Operator shall purchase all necessary supplies, materials and equipment in accordance

with the City of Lincoln's purchasing ordinances. Such purchases shall be paid for or reimbursed by the City. All purchases will be made through the City's Purchasing Division, unless otherwise directed by the City.

Operator shall make available to the City the benefit of any savings resulting by reason of volume purchase of garage forms and/or other supplies, equipment and services.

Operator agrees to provide suitable and separate accounting for each facility on a cash basis financial system, at its own cost without charging the cost thereof as an operating expense, hereinafter defined:

- Accounts receivable details, accounts receivable aging, collection control, and payroll checks.
- Daily deposits and cash reports.
- Audit and reconcile bank deposits.
- Provide periodic inspections and procedures audits.
- Prepare annual operating budget.
- Payroll
- Monthly and hourly revenue
- Daily, Monthly and Annual Operating reports by facility
- Monthly operating and financial report electronically, to include the following:
 - Peak and average usage per facility for monthly and hourly parkers.
 - Average hourly turnover rates.
 - Total lease parkers.
 - Total revenue by type.
- Monthly floor plan information including key card numbers, name of customer, facility assigned to, number of vehicles, total amount billed, and lease rate for each vehicle. The floor plan report shall also track the number of key cards used, along with available, damaged and lost cards. Operator agrees not to sell or trade any of this information.
- Annual fixed assets report, in accordance with City format.
- Annual rate survey of all parking facilities in the Central Business District.

Operator agrees to provide operating reports in formats approved by the City, as follows:

- Detailed daily report of business activity. This report identifies tickets by hours parked, charge and cash business, and validations.
- Annual evaluation report of revenue by ticket type.
- Annual expense and revenue report. This report identifies by month: revenue per day, revenue per space, revenue per day per space, expense per day per space.
- Monthly summary report. This report is due to the City by the 20th day of the following month and identifies:
 - Total and average parking ticket type by month and year.
 - Average transient turnover rates.
 - Total lease parkers.
 - Average percent of occupancy.
 - Total ticket revenues.

Variances regarding money, tickets and total operations.

Software purchased and used by the Operator shall be compatible with the software used by the City in order to necessitate the electronic exchange of information and records. The City's SCAN and Access Control Systems will be utilized for applicable reports.

Operator shall provide to Owner, within 60 days after the commencement of Operating Period, a Policy and Procedures Manual (the "Manual"). The Manual shall be developed by Operator based upon its experience and best judgment, applying accepted industry practices most appropriate for management of the Parking Facilities.

IV. Management Fee

As compensation for the services of Operator herein, the City shall pay to Operator a fee of \$5,000 per month effective September 1, 2004 for the life of the contract.

- This fee is billable on a monthly basis and covers the City-owned and/or operated parking facilities as described in the preamble. Should additional parking facilities be added, the additional management fee will be \$1.00 per space per month.

Pursuant to the City's agreement with the United States Government to operate the Federal Parking Garage on evenings and weekends, Operator shall operate the facility as determined by the City for \$12.15 per hour or at a rate mutually agreeable. This fee includes wages, taxes, workers' compensation insurance and benefits. Liability insurance will be an additional cost. The hourly rate will be reviewed annually and adjustment, if any, will be subject to City approval.

V. Accounting and Reporting

The parking facilities' business covered by this agreement shall be carried on for the City under the names of:

Center Park Garage	Cornhusker Square Garage
University Square Garage	Que Place Garage
Carriage Park Garage	Market Place Garage
Lincoln Station North Lot	Lumberworks Parking Lot
Lincoln Station South Lot	Haymarket Garage
Federal Parking Garage	Iron Horse Lot
	Federal Garage

The Operator, as part of the management fee, shall install and maintain a suitable, complete accounting system covering all parking facilities, sufficient to provide reports identified in other parts of this document, as well as utilizing the City's financial system as instructed by the City. The books, records and accounts shall, be open to inspection by the City or its authorized representatives during normal business hours. Reports shall be on a cash basis financial system.

Operator shall deposit daily all parking facilities' receipts to the credit of the City Treasurer in a bank designated by the City Treasurer. The deposits shall be reconciled and delivered to the City with a summary report which details the income by City business unit, type and denomination by the next business day.

Operator shall submit, on or about the fifth (5th) and twentieth (20th) days of the current month, to the Director of Public Works & Utilities all operating expenses paid by Operator and the City shall reimburse Operator for all properly incurred operating expenses within ten (10) business days. Said expenses shall not include the carrying cost of said property such as building depreciation, real estate taxes, bond and other interest, rent, trustees fees, etc., but shall include but not be limited to the cost of labor, salaries, payroll taxes, approved fringe benefits, uniforms, insurance, normal and customary maintenance and repair of equipment, postage and approved office space rental, and such other operating expenses as shall be approved in advance by the City.

City-owned equipment shall be used by Operator's personnel for City facilities only. Each piece of equipment shall be inventoried and reported to the City.

Operator shall prepare and submit to City for its review and approval, 90 days prior to the beginning of the second and subsequent years of this Agreement, an Operating Budget for each Contract Year. The Operating Budget shall include separate budgets for each facility and a consolidated budget for the combined Parking Facilities for which Operator is responsible under this Agreement. The Budget shall consist of categories, sub-categories and line items as approved by City.

Operator shall not exceed the annual budgeted amount for any budget sub-category without prior written approval of City.

Operator shall provide to City a quarterly line-item analysis report on the status of the Operating Budget, including annual budgeted amounts, year-to-date budgeted amounts, year-to-date expenditures and variances (by quarter and year-to-date, in dollars and as a percentage), with a written explanation of any variances in excess of 10% of the year-to-date budgeted amount.

Within 90 days following the end of each Contract Year, and within 90 days following termination or expiration of the Agreement, Operator shall prepare an Annual Statement of Operating Results to include the items below. City, or its designated agent, shall have the right to perform periodic financial audits of all operations related to the Agreement. The financial audit will be performed in accordance with Generally Accepted Auditing Standards (GAAS), and will state the opinion of those statements to fairly reflect the financial position and operation in accordance with Generally Accepted Accounting Principals (GAAP). The result of the annual financial audit is the CPA's Certification Audit Report. As part of the Certification Audit Report, the CPA shall give its opinion as to the adequacy of all of the revenue control and cash-handling equipment and procedures. The CPA's Certification Audit Report shall include sufficiently-detailed

schedules and explanations of discrepancies.

Operator shall retain all records and reports, including original shift reports and payroll records, for the duration of this Agreement and for a period of one year beyond the termination of the Agreement or any extensions. Processed tickets shall be retained for a period of two years. Tickets processed more than 2 years earlier may be destroyed after City is given thirty (30) days written notice of the intention to dispose of those tickets at which time City has the right to take custody of the tickets scheduled for disposition. If City elects to take custody of processed tickets and Operator lacks sufficient space to continue storage of those tickets, City will remove the tickets or provide for alternate storage.

City may conduct periodic financial, operational or procedural audits of Operator. The audits may be announced or unannounced. Operator shall be obligated to deliver to City, at a place designated by City in the City of Lincoln, any records requested by City that pertain to the operation of the Parking Facilities. The audit scope can include, but will not be limited to, tests of the reliability of the parking and access control system, cashier reconciliation, exception tickets and transaction processing, and compliance with operational controls according to the Operator's Manual. City may require Operator to respond in writing to findings and recommendations identified during the course of the audit. This response shall be submitted within thirty (30) days of receiving the auditor's report. The City may, however, require Operator to respond within five (5) days to specific findings or discoveries that are considered major risks to revenue control, safety or legal obligations.

VI. Personnel

Operator shall have on duty at all times sufficient personnel for the proper operation, maintenance, and management of the parking facilities, including, at the discretion of the City, off duty police officers at the times and events directed by the City. All such personnel shall be paid for as an operating expense. The Operator shall select all on-site personnel. Any expenses relating to the hiring process shall be the Operator's. The City shall have approval authority for all job qualification descriptions and may require the replacement of any employee as allowed by law or collective bargaining agreements. All parking attendants shall be in uniform while on duty. City shall have approval authority for personnel policies and procedures.

Operator shall furnish a full-time professional resident parking manager to provide the on-going management for the parking facilities.

The Manager shall provide a minimum of 40 hours of service per week towards this contract, and when not available, shall delegate responsibilities and authority to a capable and responsible person. He/she is responsible for the operation of the parking facilities and must operate them as directed by the City of Lincoln. He/she must be available to the City for consultation on matters relating to the operation of the facilities and shall be responsible for recommending and implementing changes agreed to by the City. The

Manager shall be retained by the Operator with approval by the City. Salary and salary adjustments for the Manager are subject to prior approval by the City. The City retains the right to request a replacement Manager at its discretion as allowed by law or any collective bargaining agreement. The Operator shall hold the City harmless from any claims of any nature from the Manager or employees for any purposes relating to operation of the City's facilities but only to the extent same are caused by negligence, misconduct or other fault of Operator its agent or employees.

The initial and any subsequent appointments or removal of a Manager will be the responsibility of the Operator, but will be with the approval of the Director of Public Works & Utilities.

All travel and relocation expenses for the Operator's personnel shall be the responsibility of the Operator, unless otherwise approved by the City in advance.

VII. Parking Rates

All fees charged for parking shall be determined by the City. The Operator shall review and recommend adjustments to the rates annually. The City shall advise Operator of changes in rates and the effective date of such changes. It is understood and agreed that all cashiered facilities shall participate in validation systems as the City shall determine. Operator agrees to provide such assistance as may be necessary to implement and operate such validation systems. Operator shall provide a rate analysis, annually.

VIII. New Facilities

If new City parking facilities are constructed during this contract period or the City enters into an agreement with any other public agency or entity to operate a parking garage owned by such public agency or entity during this contract period, the Operator, upon request of the City, agrees to manage said facilities at an additional fee of \$1.00 per space per month.

IX. Office Space

The Operator shall have office space in Downtown Lincoln, as approved by the City. Cost to the City for this space will be passed to the City as an expense. The Operator shall receive written approval of the Director of Public Works & Utilities indicating the City's concurrence in the location and cost of the space, prior to use of the space. If the Operator uses the office space for management of parking facilities which are not part of the City contract, the office space expenses will be shared proportionately.

X. Insurance

The Operator shall purchase insurance for the benefit and protection of the Operator and City, of the types listed below and such other coverage as the City and Operator may deem advisable at minimum limits shown and from such carriers as may be mutually agreeable, in accordance with the following insurance schedule.

Type	Minimum Requirement
Statutory Worker's Compensation	Per State Law
Comprehensive General Liability Bodily Injury Limits	\$2,000,000 per occurrence \$2,000,000 aggregate
Personal Injury Limits	\$1,000,000 per person aggregate \$1,000,000 general aggregate
Property Damage Limits	\$1,000,000 aggregate
Employee Fidelity Bond	\$100,000
Garagekeeper's Insurance	\$250,000 per facility

Garagekeeper's insurance is comprehensive coverage written on a "direct coverage primary basis". Coverage shall be subject to not more than a \$250 deductible, each automobile or more than a \$1,000 deductible per occurrence at minimum limits.

The City of Lincoln shall be added as an additional insured, but only to the extent loss, liability or expense is caused by negligence, misconduct or other fault of Operator, its agent or employees, under this policy.

The Operator shall provide certificates of insurance of all insurance policies specified herein. No policy may be cancelled or non-renewed within thirty (30) days without written notice to the City.

Operator shall defend, indemnify and hold City harmless from and against any and all actions, costs, claims, losses, expenses and/or damages, sustained by City attributable to the negligence of Operator or any of its agents, servants, or employees from any cause, including, without limitation by specification, property damage and/or injury or death to any person or persons. City shall defend, indemnify and hold Operator harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by Operator attributable to the recklessness, carelessness or negligence of City or any of its servants or employees from any cause, including without limitation by specification, property damage and/or injury or death to any person or persons. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from design or structural faults or defects shall not be the responsibility of Operator.

City shall be responsible for maintaining all risk property insurance for the parking facilities

and equipment. City does hereby waive all rights of recovery, if any, against Operator for damage to, or destruction of, the parking facilities in the event such damage or destruction can be covered by a standard fire and extended coverage insurance policy.

XI. Taxes and Assessments

City will pay directly to the taxing authorities all taxes and assessments levied upon or assessed with respect to the real and personal property of, within and adjacent to the premises.

XII. Equal Employment Opportunity

In connection with the performance of the work under this agreement, Operator agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, disability, national origin, age, marital status or receipt of public assistance. In the employment of persons, Operator shall fully comply with the provisions of Chapter 11.01 through 11.08 of the Lincoln Municipal Code, and shall take affirmative action to ensure that applicants for employment and employees hired are to be duly appointed without regard to their race, color, religion, gender, sexual preference, disability, national origin, age, marital status or the receipt of public assistance, and shall make such accommodations in the work place as may be required for such employment.

XIII. Notice

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served upon the party giving such notice, or may be mailed to the following addresses:

City

City Clerk
City of Lincoln
555 South 10th Street
Lincoln, NE 68508

Copy to:
City Attorney
575 S. 10th Street
Lincoln, NE 68508

Operator

Scott Titmus
Sr. Vice President
Republic Parking System, Inc.
3303 Louisiana, Suite 150
Houston, TX 77006

Copy to:
Mark Huth, President
Republic Parking System, Inc.
Suite 2000 Republic Centre
Chattanooga, Tennessee 37450

XIV. Termination

Upon breach of this agreement by either party, if said breach has been called to the attention of the responsible party in writing via certified mail and that party has not corrected said failure within thirty (30) days of receipt of written notice, then the other party shall have the right to terminate this agreement by giving 60 days written notice of such termination and specifying the effective date thereof. In the event of termination, Operator agrees to leave all of City's fixtures and equipment in place and in good operating condition and Operator agrees to cooperate in good faith with City and any successor Manager of the parking facilities in effecting an orderly transition.

XV. Assignment

This agreement shall be binding upon the successors and assigns of the parties hereto, but no such assignment shall be made by Operator without written consent of the City.

XVI. Integration Clause

This document contains the entire agreement between the parties hereto; and there are no inducements nor representations leading to the execution hereof except herein contained.

XVII. Independent Contractor

It is agreed that Operator is an independent contractor and performs its duties as such. It is expressly understood and agreed that neither Operator nor its employees shall be entitled to any benefits to which City employees are entitled, including but not limited to overtime, retirement benefits, worker's compensation benefits, overtime, retirement benefits, injury leave or other benefits.

XVIII. Force Majeure

If it shall become impossible on account of Force Majeure for Operator or City to fulfill its obligations under this Agreement, such party shall be excused from the performance of said obligation for the period that said performance is impossible. However, either party shall have the right to terminate this Agreement immediately upon the occurrence of a Force Majeure which prevents the other party from performing for five (5) or more consecutive days.

XIV. Execution of Agreement

This agreement shall be construed and interpreted according to the laws of the State of Nebraska.

In witness whereof, City and Operator have executed this agreement as of the date first written above.

Attest:

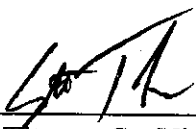
City of Lincoln, Nebraska

City Clerk

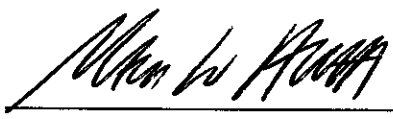
Coleen J. Seng, Mayor

Attest:

Republic Parking System, Inc.



Scott Titmus, Sr. Vice President



Mark Huth, President